

REMARKS

Claims 38-56 and 76-168 are pending in the patent application. Claims 38, 76, 78, 119, 121, 138, 140, 157 and 159 and have been amended. No new matter has been entered. After entry of these amendments, claims 38-56, 76-86 and 119-168 remain in the patent application. The Applicants note that dependent claims 122, 141 and 160 have been withdrawn but are still pending the application.

Information Disclosure Statement (IDS)

The Applicants are concurrently submitting the Seventh IDS. The Examiner is respectfully requested to review the references and make them of record.

Examiner Conversation

The Applicants would like to thank the Examiner for the conversation on September 20, 2006 with Applicants' representative John Gatz in which the § 112, second paragraph, rejection were discussed. The Applicants agreed to rewrite the claim language as suggested by the Examiner in the independent claims to include Markush-type language.

Claim Objections

Claims 38, 119 and 138 were objected to as including the language of "the acts of". The Applicants respectfully disagree and believe that the phrase "the acts of" is proper because it further clarifies that the method claims are not step-plus-function claims. To expedite prosecution, the Applicants have amended claims 38, 119 and 138 to eliminate the phrase "the acts of". Thus, the claim objections on claims 38, 119 and 138 should be withdrawn.

35 U.S.C. § 112, Second Paragraph, Rejection

Claims 38-56, 76-86, 119-168 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite as discussed at page 3 of the Office Action. Specifically, claims 38, 76, 78, 119, 121, 138, 140, 157 and 159 recited language "sealed to at least and", which was objected to as using improper Markush-type language. The Applicants respectfully disagree. To expedite prosecution, however, the Applicants have amended independent claims 38, 76, 119, 138 and 157 as suggested by the Examiner. The Applicants believe that dependents claims 78, 121, 140 and 159 cannot be drafted as a Markush-type claim because the second layer is specifically recited to be at least sealed to the first layer. The Applicants have amended claims 78, 121, 140

and 159 to further clarify the claims that the claims are not a Markush-type claim. Thus, the 35 U.S.C. § 112, second paragraph, rejections should be withdrawn.

Provisional Obviousness-Type Double Patenting Rejection

Claims 38-40, 42-56, 76-78, 80-86, 119-121, 124-140, 143-159 and 162-168 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over pending claims 1, 2, 5-9, 11-13, 16-22, 24-31, 33-35, 81, 82, 85-99, 101-109 and 148-155 of Application No. 10/190,375. Claims 38-40, 42, 44-56, 76-78, 80-86, 119, 120, 124-140, 143-159 and 162-168 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over pending claims 1, 2, 4-9, 11-13, 16-23, 25-32, 35-37, 88, 90, 161-167 and 171 of Application No. 09/915,150. Claims 38, 43, 48-51, 55, 56, 76, 80, 83-86, 119, 124, 129-132, 136-138, 143, 148-151, 155-157, 162 and 165-168 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over pending claims 70-75 and 87-100 of Application No. 10/424,460.

To obviate the obviousness-type double patenting rejection, the Applicants are filing a terminal disclaimer herewith. Thus, the provisional obviousness-type double patenting rejections should be withdrawn.

35 U.S.C. § 103(a) Rejections

Claims 38, 40-56, 76, 78-86, 119, 121, 123-138, 140, 142-157, 159 and 161-168 were rejected as being obvious over U.S. Patent No. 5,686,127 to Stockley ("Stockley") in view of U.S. Patent No. 3,459,117 to Koch ("Koch"); U.S. Patent No. 4,522,835 to Woodruff ("Woodruff"); and U.S. Patent No. 6,042,859 to Shaklai ("Shaklai"). Claims 39, 77, 120, 139 and 158 were rejected over Stockley in view of Koch, Woodruff, Shaklai and U.S. Patent No. 5,629,060 to Garwood ("Garwood").

The Applicants further reiterate its arguments with respect to the non-obviousness of the pending claims that were raised in previous responses to Office Actions on October 7, 2003; October 14, 2004; December 12, 2005 and May 24, 2006.

Thus, claims 38, 40-56, 76, 78-86, 119, 121, 123-138, 140, 142-157, 159 and 161-168 are not obvious over Stockley, Koch, Woodruff, Shaklai or any combination thereof. Claims 39, 77, 120, 139 and 158 are not obvious over Stockley, Koch, Woodruff, Shaklai, Garwood or any

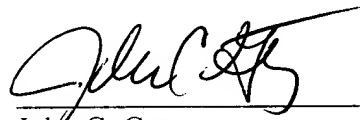
combination thereof. Therefore, claims 38-56, 76-86 and 119-168 should be in a condition for allowance.

Conclusion

The Applicants submit that the claims are in a condition for allowance and action toward that end is earnestly solicited. A check in the amount of \$130.00 for the terminal disclosure fee is enclosed. It is believed that no additional fees are due; however, should any additional fees be required (except for payment of the issue fee), the Commissioner is authorized to deduct the fees from Jenkins & Gilchrist, P.C. Deposit Account No. 10-0447, Order No. 47097-01106USC1.

Respectfully submitted,

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Date



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